

11/8/2006

60-R-06

A RESOLUTION

Adopting a Residential Anti-Displacement and Relocation Policy

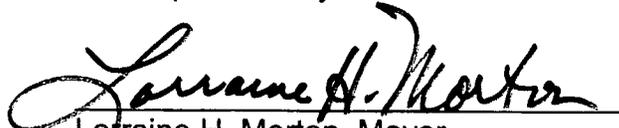
WHEREAS, the U.S. Department of Housing and Urban Development (HUD) requires local communities to have a compliant residential anti-displacement and relocation policy to protect persons displaced as a result of a federally assisted project or program; and

WHEREAS, the City of Evanston may provide HUD assistance for acquisition-, rehabilitation-, conversion-, or demolition-related relocation activities; and

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:

SECTION 1: That the "Residential Anti-Displacement, Replacement Housing and Relocation Assistance Plan" and the provisions within, attached hereto as Exhibit A, are adopted as policies of the City of Evanston.

SECTION 2: That this Resolution shall be in full force and effect from and after its passage and approval in the manner provided by law.


Lorraine H. Morton, Mayor

Attest:


Mary P. Morris, City Clerk

Adopted: November 13, 2006

EXHIBIT A**City of Evanston****Community Development Block Grant (CDBG) Program
HOME Investment Partnerships Program (HOME) Program
Residential Anti-Displacement, Replacement Housing and
Relocation Assistance Plan**

As a pre-submission requirement when applying for funding through the CDBG and/or HOME Program, the City is required to develop, make public, and certify that it is following a Residential Anti-Displacement and Relocation Assistance Plan.

Legislation: Amendments to the Housing and Community Development Act of 1974, coupled with expansion of the Uniform Relocation Act, in 1989, to cover HUD assisted private development represents the strongest anti-displacement measures yet to be applied to HUD assisted activities. Additional legislation was passed on October 28, 1992, the Housing and Community Development Act of 1992. Within this legislation there was Section 105(b) of the Cranston-Gonzalez National Affordable Housing Act, which required a HOME participating jurisdiction (PJ) certify it is following a Residential Anti-Displacement and Relocation Assistance Plan (Plan) under its HOME Investment Partnerships Program (HOME). This Plan requires the same actions and provides the same rights as the Plan required for the Community Development Block Grant (CDBG) Program under Section 104(d) of the Housing and Community Development Act of 1974, expanded in 1989.

Policy: The Certification and Plan are required even if the HOME or CDBG assisted projects will not result in the demolition or conversion of a low/moderate-income dwelling. PJs (e.g., HOME consortia) that are not CDBG grantees must establish and follow a Plan that meets the requirements of the applicable CDBG regulation (24 CFR 570.606(c) for local jurisdictions and 570.488(c) for states).

The Plan is divided into three (3) sections and addresses: (I) the City policies to minimize and avoid displacement of persons from their homes and neighborhoods; (II) the replacement of any low and moderate income occupiable housing units that are demolished or converted to another use utilizing CDBG or HOME funding, and any relocation that is associated with the loss of those housing units; (III) displacement and relocation subject to the Uniform Act. The following Plan is intended to address requirements for written plans and procedures for displacement and relocation under both CDBG and HOME. A glossary of common terms, a summary of the appeal process, and a one-for-one replacement housing template (for submission to HUD) are attached as Appendices A, B, and C respectively.

SECTION I:**STEPS TO BE TAKEN TO MINIMIZE
DISPLACEMENT OF PERSONS FROM THEIR HOMES**

The following steps will be taken by the City to avoid or mitigate displacement and its adverse effects, when deemed necessary.

- A. Coordinate code enforcement with rehabilitation and housing assistance programs.
- B. Evaluate housing codes and rehabilitation standards in reinvestment areas to prevent undue financial burden on established owners and tenants.
- C. Stage rehabilitation of apartment units to allow tenants to remain in the building/complex during and after the rehabilitation, working with empty units first.
- D. Arrange for facilities to house persons who must be relocated temporarily during rehabilitation.
- E. Priority will be placed on the rehabilitation of housing, as opposed to demolition, where feasible, to avoid displacement.
- F. Property acquisition will be highly selective, targeting only those properties deemed essential to the success of a project.
- G. Priority will be placed on the purchase of unoccupied buildings, if suitable.

When a property must be acquired for a HUD assisted project, efforts will be made to avoid displacement until the property is actually needed. Additionally, the City will strive to insure that:

- A. Acquisition and/or demolition of properties will be timed so as to allow the maximum amount of time and attention for tenant and owner relocation.
- B. Temporary displacement due to rehabilitation will be for as brief a period as possible.
- C. Except in emergency cases, owners and tenants of properties who may be displaced will be given at least a ninety-day notice offering comparable housing prior to being required to move.

- D. In determining whether or not temporary relocation is necessary to facilitate rehabilitation of a dwelling unit, the City will consider hardship likely to result if the person occupies the unit during the process. In certain cases, local occupancy codes and HUD's regulations on lead-based paint, will require the occupant to move temporarily.
- E. The City will review all claims for relocation assistance in an expeditious manner. The claimant will be promptly notified of any additional documentation that is required to support the claim. Payment of the claim shall commence within thirty (30) days following receipt of documentation to support claims.
- F. If a person demonstrates need for an advance relocation payment in order to avoid or reduce hardship, the person will be issued the needed portion of the payment, subject to safeguards as appropriate, to ensure that the objective of the payment is accomplished.
- G. All persons to be displaced as a result of a federally funded activity shall be offered, at a minimum, relocation advisory assistance as outlined in 49 CFR Part 24.205, including assistance in filing claims and appeals.

SECTION II:**STEPS TO BE TAKEN WHEN LOW- AND MODERATE- INCOME DWELLING UNITS ARE DEMOLISHED OR CONVERTED TO ANOTHER USE AS A DIRECT RESULT OF ACTIVITIES ASSISTED WITH COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS (and/or HOME funds when applicable)****A. One for One Replacement Component**

The City will replace all occupied and vacant occupiable, low and moderate income housing demolished or converted to a use other than lower income housing in connection with a project assisted with funds under the CDBG program and/or the HOME Investment Partnerships Act. The term "vacant occupiable" means that although the unit is not occupied, the unit is not infeasible for rehabilitation according to local economic standards. More on specific requirements for replacement of units is found at 24 CFR Part 570.606(b)(1) for CDBG and, 24 CFR Part 42, for HOME assisted projects (Cross References: 24 CFR Parts 91, 92 and 570).

All replacement housing will be provided within three years after the commencement of the demolition or conversion. Replacement dwelling units may include public housing, existing housing receiving project-based Section 8 assistance, vacant units raised from substandard to standard and newly constructed units within the City.

Before obligating or entering into a contract committing the City to provide funds for a project that will directly result in demolition or conversion, the City will make public by publication in a newspaper of general circulation or during a public meeting or web-site posting, and submit to HUD the following information in writing (see Appendix C):

1. A description of the proposed assisted project;
2. The address, number of bedrooms, and location on a map of lower income housing that will be demolished or converted to a use other than as lower income housing as a result of an assisted project;
3. A time schedule for the commencement and completion of the demolition or conversion;
4. To the extent known, the address, number of bedrooms and location on a map of the replacement housing that has been or will be provided.

5. The source of funding and a time schedule for the provision of the replacement housing;
6. The basis for concluding that the replacement housing will remain lower income housing for at least 10 years from the date of initial occupancy;
7. Information demonstrating that any proposed replacement of housing units with smaller dwelling units (e.g., a two-bedroom unit with two (2) one-bedroom units), or any proposed replacement of efficiency or single-room occupancy (SRO) units with units of a different size, is appropriate and consistent with housing needs and priorities identified in the approved Consolidated Plan submitted to HUD.

To the extent that the specific location of the replacement housing and other data in items 4 through 7 are not available at the time of the general submission, the City will identify the general location of such housing on a map and complete the disclosure and submission requirements as soon as the specific data is available.

B. Relocation Assistance Component

The City will provide relocation assistance as described in 24 CFR Part 570.606(b)(2), to each low and moderate income household displaced by the demolition of housing or by the conversion of a low-moderate income dwelling unit to another use as a direct result of the HUD assisted activity.

Household may receive assistance as described in 49 CFR Part 24, HUD regulations implementing the Uniform Relocation Act, if they do not qualify for assistance under CDBG regulations at 570.606(b)(2).

The Uniform Act is summarized in Part III of this document. A person will not qualify for Section 104(d) relocation assistance, but retain rights and benefits under the Uniform Act under two circumstances:

- A. The person chooses to become a homebuyer, and the home is not mutual or cooperative housing.
- B. The person is eligible for, and is offered, a Section 8 Housing Voucher but refuses it in lieu of a cash payment under the Uniform Act.

Under Section 104(d) of the Housing and Community Development Act of 1974 (HCD), as amended, the following is a summary of benefits available to low- and moderate-income households that are displaced for as a result of demolition or conversion for a CDBG or HOME assisted project:

1. Moving expenses – subject to the limitations and definitions contained in 49 CFR Part 24, Subpart D, a displaced owner-occupant or tenant of a dwelling unit is entitled to either:
 - a. Reimbursement of actual, reasonable moving expenses for the transportation of themselves and personal property, including packing, storage (if necessary), and other eligible expenses.

OR

- b. A fixed moving expense payment determined according to the applicable schedule approved by the Federal Highway Administration based on the number of rooms of furniture.

The schedule can be found online at:

<http://www.fhwa.dot.gov/realestate/fixsch96.htm>

2. Security Deposits/Credit Checks - The reasonable cost of a security deposit required to rent the replacement dwelling unit, and any credit checks required to rent or purchase replacement housing.
3. Replacement Housing Assistance - Persons are eligible to receive one of the following two forms of replacement housing assistance under Section 104(d) of the CD:
 - a. Each low income person must be offered rental assistance equal to 60 times the amount necessary to reduce the monthly rent plus utilities for the replacement dwelling (comparable replacement dwelling or a decent, safe, and sanitary dwelling to which the person relocates – whichever is less). All or a portion of the assistance may be offered through the Section 8 Housing Voucher program, if available, through the local public housing authority (PHA). If no such assistance through Section 8 is available, the rental assistance shall be cash, distributed in installments, not to exceed 60 months. However, if a Voucher is available to offer, and the person chooses a cash payment, in lieu of a Section 8 Voucher, then the rental assistance is limited to 42 months (instead of 60).
 - b. If the person purchases an interest in a housing cooperative or mutual housing association and occupies a decent, safe and sanitary unit in the cooperative or mutual housing association, the person may elect to receive a lump sum payment to be used for the purchase. This lump sum shall be equal to the capitalized value of 60 monthly

installments of the amount obtained by subtracting the "Total Tenant Payment" from the monthly rent and estimated utility cost at a comparable replacement dwelling (see definition of comparable).

- c. If a person eligible for assistance under Section 104(d) of the Act elects to purchase a standard home under conventional financing, the relocation subsidy will be provided in a lump sum. However, the subsidy is calculated according to the Uniform Act, not Section 104(d).
4. **Advisory Services** – All eligible displaced households shall be provided appropriate advisory services, including notification of the planned project with a description of relocation assistance available, counseling, and referrals to at least one suitable comparable replacement dwelling, but more than one referral will be sought.

SECTION III:**STEPS TO BE TAKEN WHEN HUD-ASSISTED
ACQUISITION, REHABILITATION, CONVERSION OR
DEMOLITION CAUSES DISPLACEMENT**

(The following "Uniform Act" requirements are applicable to the Community Development Block Grant Program (CDBG) and the HOME Investment Partnerships Program)

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act) provides important protections and assistance for people affected by the acquisition, rehabilitation, or demolition of real property for federal or federally funded projects. In compliance with the Uniform Act, the City will ensure that people whose real property is acquired, or who involuntarily move as a direct result of projects receiving federal funds, are treated fairly and equitably and receive assistance in relocating and moving from the property they occupy.

On February 3, 2005, the Uniform Act regulations were amended to incorporate further clarifications on the applicability of the Act to federal programs. This Section incorporates any revisions applicable, as a result of the recently amended Uniform Act regulations at 49 CFR Part 24.

If, as a direct result of a federally assisted project or activity, it becomes necessary to relocate persons, they shall be eligible for relocation benefits and services as outlined below (49 CFR Part 24, Subpart C-E):

A. Permanent Displacement

Moving Expenses - Subject to the limitations and definitions contained in 49 CFR, Subpart D, a displaced owner-occupant or tenant of a dwelling is entitled to either:

- a. Reimbursement of actual, reasonable moving expenses for the transportation of themselves and personal property, including packing, storage (if necessary), and other eligible expenses.

OR

- b. A fixed moving expense payment determined in accordance with the applicable schedule approved by the Federal Highway Administration based on the number of rooms of furniture. The current schedule can be found online at: <http://www.fhwa.dot.gov/realestate/fixsch96.htm>

Advisory Services - as outlined in 49 CFR Part 24, Subpart C, including notification of the planned project with a description of protections, rights, and relocation assistance available. Advisory services include counseling and referrals to comparable replacement housing, filing of claims and referrals to other agencies for assistance, as deemed appropriate.

Replacement Housing Assistance – Subject to the limitations of 49 CFR Part 24 Subpart E of the Act, a displaced owner-occupant or tenant is eligible for one of the following replacement housing payments:

a. One Hundred Eighty (180) -Day Homeowner-Occupant

- i. If the person has actually owned and occupied the displacement dwelling for not less than one hundred eighty (180) days prior to the initiations of negotiations to acquire the property for a project, and occupies a replacement dwelling within one year, the person is eligible for a replacement housing payment which represents the combined cost of (1) the differential amount, (2) increased interest costs, and (3) reasonable incidental expenses (including professional home inspection) as outlined in the Uniform Act regulations in 49 CFR Part 24, Section 24.401;

OR

- ii. If the person is eligible for assistance under this section but elects to rent a replacement dwelling within one year (instead of purchase again) the person will be eligible for a rental assistance payment (RAP) computed in accordance with Section 24.401(a)(2)(ii), as below. However, the RAP cannot exceed what the homeowner would have been entitled to under a 180-day homeowner calculation.

b. Ninety (90) -Day Occupants (homeowners and tenants)

A tenant occupying a rental unit for more than ninety (90) days (or a homeowner-occupant who elects to rent after displacement) is eligible for one of the two types of payments below.

Rental Assistance payments are computed differently for low income and non-low income persons in the following manner:

Low income (persons below 80% of the median family income as determined by HUD)

- 1) The lessor of the monthly cost of rent and utilities for a comparable replacement dwelling, or the monthly cost of rent and utilities for a decent, safe and sanitary unit the person actually moves into.
- 2) The lessor of thirty percent (30%) of the person's anticipated, average, gross household income, or the monthly cost of rent and utilities at the displacement dwelling (old unit).
- 3) Line (1) above, minus Line (2) above.
- 4) Forty-two times the amount from Line (3) = the payment.

Non-Low Income (persons above eighty percent (80%) of the median family income as determined by HUD)

- 1) The lessor of the monthly cost of rent and utilities for a comparable replacement dwelling, or the monthly cost of rent and utilities for a decent, safe and sanitary unit the person actually moves into.
- 2) The monthly cost of rent and utilities at the displacement dwelling, which is the old unit.
- 3) Line (1) above, minus Line (2) above.
- 4) Forty-two times the amount from Line (3) = the payment.

OR

Down Payment Assistance

For a renter electing to purchase a home, assistance is calculated as the amount the person would receive under paragraph (b) above.

Security Deposits/Credit Checks

Security deposits are not an eligible expense under the Uniform Act, as a grant or subsidy, unless it is distributed as a repayable loan. However, a person can choose to use a portion of a replacement housing payment (an advance on the claim) to secure a replacement unit.

Credit checks are eligible if a person chooses actual, reasonable expense reimbursement, but not under a fixed schedule for moving allowance.

Housing of Last Resort

While there are caps on rental (\$5,250) and homeowner (\$22,500) payments under the Uniform Act regulations, Subpart E, these caps shall be exceeded or other appropriate measures will be taken to insure that all displaced persons are able to occupy comparable, decent, safe and sanitary housing after displacement. The City will take appropriate measures under the "Housing of Last Resort" provisions discussed within the regulations at Subpart E, 49 CFR Part 24.404. These measures may include, but are not limited to, the following:

- 1) Rehabilitation of and/or additions to an existing replacement dwelling;
- 2) Construction of a new replacement dwelling; or
- 3) Payment of a replacement housing payment in excess of the prescribed caps as set forth within 49 CFR Part 24, Subpart E.

B. Temporary Displacement

If the City determines that it is necessary to temporarily relocate tenants in a building being rehabilitated, the tenant is eligible for:

- 1) Referral to decent, safe, and sanitary temporary housing;
- 2) Reasonable, actual moving expenses;
- 3) Any increase in housing costs for the time the person is away from the building, including any increase in rent and utilities; and
- 4) Utility disconnects and reconnects, as necessary.

In no case will tenants be required to relocate for a period to exceed twelve months. If the time away from a unit exceeds one year, the tenants shall be contacted and offered the choice to wait longer, or be treated as a permanently displaced person and as such, will be provided full coverage and assistance as a permanently displaced tenant under the Uniform Act.

C. Payment Standards

The City will decide who is responsible for payment of eligible costs and, whether the project sponsor has the capacity to undertake either temporary or permanent relocation. Written agreement will be made between project sponsors, property owners and the City prior to any displacement, stating who will be responsible for each portion of implementing the actions outlined in this Plan, and who will undertake the relocation duties.

The City will insure that relocation payments to persons are provided in a timely manner. If a payment is for homeownership (after displacement) the payment shall be provided in a lump sum, upon verification of a firm contract for purchase. If the payment is for renting, lump sum payments are prohibited, and must be made in installments.

D. Commercial, Business or Nonprofit Displacement

The definition of "displaced person" under the Uniform Act also includes coverage, protections, and assistance for commercial, business, and nonprofit entities that must be displaced for a federally assisted project (49 CFR Part 24, Subpart B).

Assistance under the Uniform Act for commercial, business or nonprofit agencies is provided in the form of:

- a. Advisory services,
- b. Actual, reasonable moving and related expenses OR a fixed payment in-lieu of actual expenses, and
- c. Assistance in re-establishing the business or agency, limited to a maximum of \$10,000.

E. Illegal Aliens

In general, illegal aliens are not eligible for, or entitled to relocation benefits under the Uniform Act. In cases where there are one or more legal residents in the household, benefits can only be provided on a pro-rata basis, and only if it determined that displacement would cause an extreme hardship if the assistance is not provided (49 CFR 24.208).

F. Relocation Benefit Waivers

The City may not propose or request that a displaced person sign any waiver of Uniform Act benefits (49 CFR 24.207(f)). The displaced person must be advised of the assistance to which they are entitled. The City may accept a written refusal of assistance from a displaced person.

G. Other General Requirements – Claims for Relocation Payments

There are additional requirements under 49 CFR Part 24.403 governing replacement housing payments, as follows:

a. Comparable Replacement Dwellings

To the extent feasible, comparable replacement dwellings shall be selected from the neighborhood in which the displacement dwelling was located or, if that is not possible, in nearby or similar neighborhoods where housing costs are generally the same or higher.

b. Multiple Occupants of One Displacement Dwelling

If two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by the City, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. However, if the City determines that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments.

c. Deductions from Relocation Payments

An Agency shall deduct the amount of any advance relocation payment from the relocation payment(s) to which a displaced person is otherwise entitled. The Agency shall not withhold any part of a relocation payment to a displaced person to satisfy an obligation to any other creditor.

d. Inspection of Replacement Dwelling

Before making a replacement housing payment or releasing the initial payment from any escrow, the City or its designated representative shall inspect the replacement dwelling and determine whether it is a decent, safe, and sanitary dwelling, as defined at 49 CFR 24.2(a)(8). As a result of recent amendments to the Uniform Act, local housing standards and building codes are to be emphasized in making the determination under this part.

e. Occupancy Requirements for Displacement or Replacement Dwelling

No person shall be denied eligibility for a replacement housing payment solely because the person is unable to meet the occupancy requirements set forth in these regulations for a reason beyond his or her control, including:

(1) A disaster, an emergency, or an imminent threat to the public health or welfare, as determined by the President, the Federal Agency funding the project, or the displacing Agency; or

(2) Another reason, such as a delay in the construction of the replacement dwelling, military duty, or hospital stay, as determined by the City.

f. Conversion of Payment

A displaced person who initially rents a replacement dwelling, and receives a rental assistance payment under Sec. 24.402(b), is eligible to receive any remaining payment in a lump sum, if the person meets the eligibility criteria for such payments. To convert a payment to homeownership assistance, a person must purchase and occupy a unit within the prescribed 1-year period. Any portion of the rental assistance payment that has been disbursed shall be deducted from the payment computed.

g. Payment After Death

A replacement housing payment is personal to the displaced person and upon his or her death the un-disbursed portion of any such payment shall not be paid to the heirs or assigns, except that:

- (1) The amount attributable to the displaced person's period of actual occupancy of the replacement housing shall be paid.
- (2) Any remaining payment shall be disbursed to the remaining family members of the displaced household in any case in which a member of a displaced family dies.
- (3) Any portion of a replacement housing payment necessary to satisfy the legal obligation of an estate in connection with the selection of a replacement dwelling by or on behalf of a deceased person shall be disbursed to the estate.

h. Insurance Proceeds

To the extent necessary to avoid duplicate compensation, the amount of any insurance proceeds received by a person in connection with a loss to the displacement dwelling due to a catastrophic occurrence (fire, flood, etc.) shall be included in the acquisition cost of the displacement dwelling when computing the price differential. (See Sec. 24.3.)

i. No Duplication of Payments

There is a prohibition against the City making a payment to a person under the Uniform Act regulations that would duplicate another payment the person receives under Federal, State, or local law. The City is not required to conduct an exhaustive search for such other payments; it is only required to avoid creating a duplication based on the (jurisdiction's) knowledge at the time a payment is computed.

j. Expeditious Payments

The City shall review claims in an expeditious manner. The claimant shall be promptly notified as to any additional documentation that is required to support the claim. Payment for a claim shall be made as soon as feasible following receipt of sufficient documentation to support the claim.

k. Advanced Payments

If a person demonstrates the need for an advanced relocation payment in order to avoid or reduce a hardship, the City may issue the payment, subject to such safeguards as are appropriate to ensure that the objective of the payment is accomplished.

l. Time for Filing

All claims for a relocation payment shall be filed with the City no later than 18 months after the date of displacement. The City may waive this time period for good cause.

m. Notice of Denial of Claim

If the City disapproves all or part of a payment claimed or refuses to consider the claim on its merits because of untimely filing or other grounds, it shall promptly notify the claimant in writing of its determination, the basis for its determination, and the procedures for appealing that determination.

n. Expenditure of Payments

Payments, provided pursuant to this part, shall not be considered to constitute Federal financial assistance or income for the purposes of reporting such as income to the Internal Revenue Service.

o. Unlawful Occupant (squatters)

A person who occupies without property right, title or payment of rent, or a person legally evicted, with no legal rights to occupy a property under State law. A City, at its discretion, may consider such person to be in lawful occupancy.

APPENDIX A

GLOSSARY OF TERMS

Below are common terms used in the attached Plan. For a complete list of terms and definitions used in the Uniform Act, please see 49 CFR Part 24.2.

For a complete list of definitions and terms under Section 104(d) of the Housing and Community Development Act, please see 24 CFR Part 42.305.

Displacing Agency. The term displacing Agency means any Federal Agency carrying out a program or project, and any State, State Agency, or person carrying out a program or project with Federal financial assistance, which causes a person to be a displaced person.

Comparable Replacement Dwelling. The term comparable replacement dwelling means a dwelling, which is:

- ▼ Decent, safe and sanitary.
- ▼ Functionally equivalent to the displacement dwelling.
- ▼ Adequate in size to accommodate the occupants.
- ▼ In an area not subject to unreasonable adverse environmental conditions.
- ▼ In a location, not less desirable, than that of the displaced person's dwelling.
- ▼ On a site that is typical in size for residential development with normal site improvements, including customary landscaping.
- ▼ Currently available to the displaced person on the private market except for a person receiving government housing assistance before displacement, a dwelling can reflect similar government housing assistance.
- ▼ Within the financial means of the displaced person.

Decent, Safe, and Sanitary Dwelling. The term decent, safe, and sanitary dwelling means a dwelling, which meets local housing and occupancy codes. However, any of the following standards, which are not met by the local code, shall

apply unless waived for good cause by the Federal Agency funding the project. The dwelling shall:

- ▼ Be structurally sound, weather tight, and in good repair.
- ▼ Contain a safe electrical wiring system for lighting and other devices.
- ▼ Contain a heating system capable of sustaining a healthful temperature (of approximately 70 degrees) for a displaced person, except in those areas where local climatic conditions do not require such a system.
- ▼ Be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced person included in local housing codes or in the absence of local codes, the policies of Agencies.
- ▼ Contains unobstructed egress to safe, open space at ground level;
and
- ▼ For displaced persons with a disability, be free of any barriers, which would preclude reasonable ingress, egress, use of the dwelling by such person.

Displaced Person. The term displaced person means any person who moves from the property or moves his or her personal property from the property.

(A) As a direct result of a written notice of intent to acquire, the initiation of negotiations for, or the acquisition of, such property in whole or in part for a HUD assisted project;

(B) As a direct result of rehabilitation or demolition for a project; or

(C) As a direct result of a written notice of intent to acquire, or the acquisition, rehabilitation or demolition of, in whole or in part, other real property on which the person conducts a business or farm operation

Persons Not Displaced. The following is a nonexclusive listing of persons who do not qualify as displaced persons under this part:

(A) A person who moves before the initiation of negotiations, unless the Agency determines that the person was displaced as a direct result of the program or project.

(B) A person who initially enters into occupancy of the property after the date of its acquisition for the project when fully informed of the project and any displacement prior to occupancy.

(C) A person who has occupied the property for the purpose of obtaining assistance under the Uniform Act.

(D) A person who is not required to relocate *permanently* as a direct result of a project. However, temporary relocation must be carried out in accordance with the Uniform Act.

(E) An owner-occupant who moves as a result of voluntary acquisition as described in Sec. 24.101 of the Act, or as a result of rehabilitation or demolition of property. (However, the displacement of a tenant as a direct result of any acquisition, rehabilitation or demolition for a federally-assisted project is subject to the Uniform Act and implementing regulations).

(G) A person who, after receiving a notice of relocation eligibility, is notified in writing that he or she will not be displaced for a project. Such written notification cannot be issued unless the person has not moved and the Agency agrees to reimburse the person for any expenses incurred to satisfy contractual relocation obligations entered into after the effective date of the notice of relocation eligibility

(H) An owner-occupant who conveys his or her property, as described after being informed in writing that if a mutually satisfactory agreement on terms of the conveyance cannot be reached, the Agency will not acquire the property. In such cases, however, any resulting displacement of a tenant is subject to the Uniform Act regulations.

(I) A person who retains the right of use and occupancy of the real property for life following acquisition by the Agency.

(J) A person who is determined to be in unlawful occupancy prior to or after the initiation of negotiations, or a person who has been evicted for cause, under applicable law, as provided for in Sec. 24.206. However, advisory assistance may be provided to unlawful occupants at the option of the Agency in order to facilitate the project;

(L) A person who is not lawfully present in the United States and who has been determined to be ineligible for relocation assistance in accordance with Sec. 24.208.

(M) Tenants required to move as a result of the sale of their dwelling to a person using down payment assistance provided under the American Dream Down Payment Initiative (ADDI).

Program or Project. The phrase program or project means any activity or series of activities undertaken by a Federal Agency or with Federal financial assistance received or anticipated in any phase of an undertaking.

Uniform Act (URA). The term Uniform Act means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 84 Stat. 1894; 42 U.S.C. 4601 *et seq.*), and amendments thereto.

Voluntary Acquisition. The requirements of Subpart B of the Uniform Act do not apply to acquisitions that meet all of the following conditions in paragraphs (b)(1)(i) through (iv):

(i) No specific site or property needs to be acquired, although the Agency may limit its search for alternative sites to a general geographic area. Where an Agency wishes to purchase more than one site within a general geographic area on this basis, all owners are to be treated similarly. (See appendix A, Sec. 24.101(b)(1)(i).)

(ii) The property to be acquired is not part of an intended, planned, or designated project area where all or substantially all of the property within the area is to be acquired within specific time limits.

(iii) The Agency will not acquire the property if negotiations fail to result in an amicable agreement, and the owner is so informed in writing.

(iv) The Agency will inform the owner in writing of what it believes to be the market value of the property. (See appendix A, Sec. 24.101(b)(1)(iv) and (2)(ii) of the Uniform Act regulations)

NOTE: If an acquisition does not meet the above criteria, it is subject to full acquisition requirements 49 CFR part 24 Subpart B

APPENDIX B

APPEALS

The City will promptly review appeals in accordance with the requirements of applicable law and 49 CFR Part 24.10 of the Uniform Act regulations.

Any person who believes he/she has been displaced for a federally assisted project may file a written appeal with the City that is administering the grant funds under CDBG and HOME. If a person believes that the City has failed to properly consider the person's application for assistance under the Uniform Act or Section 104(d) of the Housing and Community Development Act, by denying benefits, an appeal should be sent to, and will be reviewed by, the City. Please contact the City if you wish to discuss an appeal at:

Contact person:

James Wolinski
Community Development Director
2100 Ridge Avenue
Evanston, Illinois 60201
(847) 866-2931

Assistance, or lack thereof, that can be appealed may include the person's eligibility for, or the amount of, payments required for moving, replacement housing or commercial re-establishment.

The City shall consider written appeals regardless of form. The City may set a reasonable time limit for a person to file an appeal. The time limit shall not be less than sixty (60) days after the person receives written notification of the Agency's determination on the person's claim.

A person has a right to be represented by legal counsel or other representative in connection with his or her appeal, but solely at the person's own expense.

The City shall permit a person to inspect and copy all materials pertinent to his or her appeal, except materials which are classified as confidential. The imposition of reasonable conditions on the person's right to inspect, consistent with applicable laws, will be set.

In deciding an appeal, the City will consider pertinent justification and material submitted by the person, to ensure a fair and full review of the appeal. Promptly after receipt of all information submitted by a person in support of an appeal, the City shall make a written determination on the appeal, including an explanation of the basis on which the decision was made, and furnish the person a copy.

If the full relief is not granted, the City shall advise the person of his or her right to seek judicial review of the decision. The City official conducting the review of the appeal shall be either the head of the Agency or his or her authorized designee. However, the official cannot be directly involved in the action appealed. If the displaced person is still not in agreement with the determination, the person shall be directed to the local HUD office attention: Maureen Thurman, Relocation Specialist in Community Planning and Development for a review of the appeal and determination.

APPENDIX C

**One for One Replacement Plan
Section 104(d) of the Housing and Community Development
Act of 1974, as amended
City of Evanston**

This form, Appendix C, is for submittal to HUD before obligating HOME or CDBG funds to demolish low and moderate income dwelling units or conversion of units to another use.

Summary

The City is submitting this Housing Replacement Plan for (CDBG) or (HOME) assisted activities that will precipitate the need to replace housing available to low and moderate income persons.

HUD regulations at 24 CFR Part 42, Subpart 3 require that a jurisdiction submit (to HUD) information on the demolition, rehabilitation or conversion of housing units that will make a unit unaffordable or unavailable to low and moderate income persons.

Reporting and Disclosure

Before the City executes a contract for any activity that would create the need for one-for-one replacement, we made this Plan public and are submitting it to HUD for monitoring purposes. The City made this Plan public by:

- Newspaper advertisement (notice attached)
- Public Meeting (notice attached)
- As minutes from official government hearings (attach minutes), or
- Other (explain)

Plan for Replacement of Units no Longer Available as Affordable Housing Stock

Description of the activity:

Location on a map and number of units to be demolished/converted:

Schedule for completion of demolition or conversion:

Location on map and number of replacement units:

Source of funding and timing for replacement of units:

Basis for determining replacement units will remain affordable for at least ten (10) years:

Justification for replacing larger units with smaller units (if applicable):

These charts may be used for submittal to HUD along with other required documentation when the City will be demolishing or converting units that will trigger replacement.

A. Units demolished/converted:

Unit Size	2005	2006	2007	TOTALS
<i>1 bedroom</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>
<i>2 bedroom</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>
<i>3 bedroom</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>
<i>4 bedroom</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>
<i>5 bedroom</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>
TOTALS				

B. Timing provided for the replacement units:

REPLACEMENT UNIT TIME-LINE					
Unit Size	2004	2005	2006	2007	TOTALS
<i>1 bedroom</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>
<i>2 bedroom</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>
<i>3 bedroom</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>
<i>4 bedroom</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>
<i>5 bedroom</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>
TOTALS	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>	

Replacement units may be provided one (1) year prior to contract for demolition/conversion, and up to three (3) years after.

